

# PATENT COOPERATION TREATY

(cont. 13.06.05)

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

To:

see form PCT/ISA/220

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

#### FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/B2004/001905

International filing date (day/month/year)

10.06.2004

Priority date (day/month/year)

13.06.2003

International Patent Classification (IPC) or both national classification and IPC

C05F11/02, C05C9/00, C05G3/04, C05G5/00

Applicant

PENHILL LIMITED

#### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

#### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

10/560081  
IAP9 Rec'd PCT/PTO

10/560081

18 DEC 2009  
International application No.  
PCT/IB2004/001905

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/IB2004/001905

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**Box No. II Priority**

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1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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**Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	10-13,15
	No: Claims	1-9,14,16-21
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21
Industrial applicability (IA)	Yes: Claims	1-21
	No: Claims	

2. Citations and explanations

**see separate sheet**

**Re Item V.**

Reference is made to the following documents:

D1: US-A-4698090  
D2: US-A-4786307  
D3: XP000352692 (CA 118:101159u)  
D4: XP000352674 (CA 118:101158t)

The present application does not satisfy the requirements set forth in Article 33(2) PCT because the subject matter of claims 1-9,14,16-21 is not new in respect of prior art as defined in the regulations (Rule 64(1)-(3) PCT)

D1 describes a process for preparing a fertilizer composition by reacting humidified fossil materials such as leonardite with salts of gluconic acid and subsequently adding to the mixture an alkaline agent such as sodium or potassium hydroxide (see column 3, lines 6-9, lines 36-42; Example I) and the fertilizer obtained accordingly. The subject-matter of claims 1-4,7-9,14,16-21 lacks novelty in view of this document.

D2 also describes a process for preparing a fertilizer composition by extracting leonardite ore with an hydroxyacid such as gluconic acid and its salt and further reacting with anhydrous ammonia. The pH for the extraction is usually between 2.5 to 6 (see column 2, lines 46 to column 4, line 32). The subject-matter of claims 1,2,5-9, 14,16-21 lacks novelty in view of this document.

The subject-matter of claims 10-13,15 is considered to be mere embodiments within the ambit of claim 3. The technical features of said claims have not been shown to substantiate to a technical effect in a non-obvious manner and are considered to be either known from other documents (claim 13 is known from D3, or D4 ) or are considered as part of the routine work of a man skilled in the art.